

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|--------------------|---|----------------------------|
| BRYAN FORAKER, |) | |
| |) | Case No. 1:07CV3636 |
| Plaintiff, |) | |
| |) | |
| vs. |) | JUDGE JAMES GWIN |
| |) | (Magistrate Judge McHargh) |
| LVNV FUNDING, LLC, |) | |
| et al., |) | |
| |) | |
| Defendants. |) | MEMORANDUM |
| |) | AND ORDER |
| |) | |

McHARGH, Mag.J.

A telephone conference held on Feb. 20, 2008, regarding the pending motion to compel (doc. 20). Parties were unable to completely resolve dispute by telephone, although some issues were clarified and partially resolved. Importantly, the parties are close to agreement on an agreed protective order. The court expects the parties to resolve this issue within two weeks or sooner.

Once an agreed protective order is in place, Defendants will produce the responsive documents related to Ohio, which have already been compiled. Defendants agreed to stipulate on the class issue of numerosity, based on the number of Ohio accounts alone.

Defendants will also produce documentation (to the extent it exists) related to their policies and procedures regarding debt collection and the subsequent decision whether to pursue litigation. Should such written documentation not exist, Defendants will clarify the nature of the decision-making process in place. Defendants will also produce e-mails containing the name "Foraker," with the usual reservation of privilege. These disclosures shall take place by March 7, 2008, or sooner.

In light of the agreements reached during the conference, the court will reserve ruling on the motion to compel at this time, in the expectation that the parties will reach accommodation (to the extent possible) on the issues discussed. Defendants pointed out that they have not yet filed a motion in opposition to the motion to compel, and asked leave to hold their opposition in abeyance, pending resolution of the issues discussed. Plaintiff did not object. The court agreed to grant leave to file a memorandum in opposition, should one be necessary.

The court scheduled a telephone status conference for Thursday, March 14, 2008, at 2:00 pm, to further discuss discovery, should it be required. If the parties are able to resolve their disputes prior to that time, they are instructed to notify the court to cancel the conference.

IT IS SO ORDERED.

Feb. 21, 2008

/s/ Kenneth S. McHargh
Kenneth S. McHargh
United States Magistrate Judge